

AMENDED IN SENATE JUNE 30, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 527

Introduced by Assembly Member Leno

February 18, 2003

~~An act to amend Section 12693.90 of the Insurance Code, relating to insurance. An act to add Part 6.25 (commencing with Section 12694) to Division 2 of the Insurance Code, relating to health insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 527, as amended, Leno. ~~Healthy families: advisory panel~~
Native American Tribal Casino Employee Health Protection and Portability Act of 2003.

Existing law does not require employers to provide health care coverage for employees and dependents, other than coverage provided as part of the workers' compensation system for work-related employee injuries. Existing law provides for the creation of various programs to provide health care services to persons who have limited incomes and meet various eligibility requirements. These programs include the Healthy Families Program administered by the Managed Risk Medical Insurance Board and the Medi-Cal program administered by the State Department of Health Services. Existing law provides for the regulation of health care service plans by the Department of Managed Health Care and health insurers by the Department of Insurance.

This bill would establish the Native American Tribal Casino Employee Health Protection and Portability Program in the Health and Welfare Agency, to be managed by the Native American Tribal Casino Employee Health Board, which would consist of 11 members. The bill

would establish a process where tribal gaming casino employers may provide health care coverage to the employees and dependents through a purchasing pool administered through the program. Fees paid by employers would be collected by the Employment Development Department and deposited in the Native American Tribal Casino Employee Health Fund, a continuously appropriated fund, along with various other potential revenues. The bill would enact other related provisions.

~~Existing law establishes the Healthy Families Program, administered by the Managed Risk Medical Insurance Board, to arrange for the provision of health care, dental, and vision coverage to eligible children meeting certain household income requirements. Existing law requires the board to appoint a 15-member advisory panel to advise the board on policies, regulations, operations, and implementation of the program. Under existing law, the Healthy Families Program becomes inoperative on January 1, 2004.~~

~~This bill would increase the panel to 16 members by adding one member from organized labor.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 12693.90 of the Insurance Code is~~
- 2 ~~SECTION 1. The Legislature finds and declares all of the~~
- 3 ~~following:~~
- 4 ~~(a) That through the execution of compacts between Native~~
- 5 ~~American tribes and the State of California, tribal gaming casinos~~
- 6 ~~have been established throughout California.~~
- 7 ~~(b) That the Native American tribal casino gaming industry is~~
- 8 ~~rapidly expanding in California and that those gaming enterprises~~
- 9 ~~provide gainful employment for tens of thousands of residents of~~
- 10 ~~the State of California.~~
- 11 ~~(c) That Native American tribal casinos are very profitable~~
- 12 ~~business enterprises and have permitted gaming tribes to achieve~~
- 13 ~~unprecedented economic wealth and independence.~~
- 14 ~~(d) That the sovereign immunity enjoyed by Native American~~
- 15 ~~tribes exempts their gaming operations from the payment of all~~
- 16 ~~state and federal income tax.~~

1 *(e) That the cost of providing health care coverage to the*
2 *employees of sovereign nations should be financed by their*
3 *employers and not by the taxpayers of the State of California.*

4 *(f) That the State of California currently faces a deep and*
5 *pronounced fiscal crisis necessitating reductions in the financial*
6 *support of health care programs for its residents.*

7 *(g) That several studies have indicated that a large percentage*
8 *of the employees of tribal gaming casinos receive their dependent*
9 *health care coverage through the Healthy Families Program,*
10 *Medi-Cal, and other taxpayer financed health care programs, at*
11 *a cost to the State of California estimated to be as high as \$21*
12 *million in the 2002–03 fiscal year.*

13 *(h) That a mechanism should exist by which gaming tribes may*
14 *exercise the full measure of their sovereignty by voluntarily*
15 *participating in a program with the State of California to ensure*
16 *that their employees and their families receive health care*
17 *coverage that is fully financed by the profits of tribal gaming*
18 *operations and that permits portability of that coverage between*
19 *tribal gaming casino operations.*

20 *SEC. 2. Part 6.25 (commencing with Section 12694) is added*
21 *to Division 2 of the Insurance Code, to read:*

22
23 *PART 6.25. NATIVE AMERICAN TRIBAL CASINO*
24 *EMPLOYEE HEALTH PROTECTION AND PORTABILITY*
25 *ACT OF 2003*
26

27 *Chapter 1. General Provisions*
28

29 *12694. (a) This part shall be known as the Native American*
30 *Tribal Casino Employee Health Protection and Portability Act of*
31 *2003.*

32 *(b) (1) The Native American Tribal Casino Employee Health*
33 *Protection and Portability Program is hereby created in the Health*
34 *and Welfare Agency. The program shall be managed by the Native*
35 *American Tribal Casino Employee Health Board.*

36 *(2) The board shall consist of 11 members.*

37 *(3) The Governor shall appoint five members, subject to*
38 *confirmation by the Senate. Of the five appointees by the Governor,*
39 *four shall represent tribal casino employees and one shall*
40 *represent providers of health care to tribal casino employees. At*

1 least two of the employee members shall be members of a bona fide
2 labor organization that represents tribal casino employees. The
3 tribal chairperson or a designee of the tribal chairperson of the six
4 tribes that employ the largest number of tribal casino employees
5 shall serve on the board. The chairperson of the board shall be
6 elected by a majority of the board but shall be chosen from among
7 the members who are tribal chairpersons or their designees. The
8 members appointed by the Governor shall serve four year terms.

9 (4) The Secretary of Business, Transportation, and Housing, or
10 his or her designee, and the Secretary of Health and Welfare, or his
11 or her designee, shall serve on the board as ex officio, nonvoting
12 members.

13 (c) The board shall appoint an executive director for the board,
14 who shall serve at the pleasure of the board. The executive director
15 shall receive the salary established by the Department of
16 Personnel Administration for exempt officials. The executive
17 director shall administer the affairs of the board as directed by the
18 board, and shall direct the staff of the board. The executive director
19 may appoint, with the approval of the board, staff necessary to
20 carry out the provisions of this part.

21 12694.01. The Native American Tribal Casino Employee
22 Health Protection and Portability Program established pursuant
23 to Section 12694 shall be eligible for receipt of funds from the
24 Indian Gaming Special Distribution established pursuant to
25 Section 12012.85 of the Government Code.

26 12694.02. This part shall not be construed to diminish any
27 protection already provided pursuant to collective bargaining
28 agreements or employer-sponsored plans that are more favorable
29 to the employees than the health care coverage required by this
30 part.

31 Chapter 2. Definitions

32
33
34 12694.03. Unless the context requires otherwise, the
35 definitions set forth in this section shall govern the construction
36 and meaning of the terms and phrases used in this part.

37 (a) "Health plan" means any insurer, health care service plan,
38 self-funded employer-sponsored plan, multiple employer trust, or
39 Taft-Hartley Trust as defined by federal law, authorized to pay for
40 health care services in this state.

1 (b) “Dependent” means the spouse, minor child, permanently
2 disabled child, or legally dependent parent of a covered employee.

3 (c) “Tribal gaming casino” means a gaming establishment
4 authorized by a compact executed between the State of California
5 and a Native American tribe and executed pursuant to the Tribal
6 Government Gaming and Economic Self-Sufficiency Act of 1998
7 (Chapter 1 (commencing with Section 98000) of Title 16 of the
8 Government Code).

9 (d) “Tribal gaming casino employee” means an employee of a
10 tribal gaming casino, other than a member of that tribe.

11 (e) “Employment” has the meaning as defined in Article 1
12 (commencing with Section 601) of Chapter 3 of Part 1 of Division
13 1 of the Unemployment Insurance Code.

14 (f) “Principal employer” means the employer for whom any
15 employee works the largest number of hours in any month.

16 (g) “Wages” means all remuneration for services from
17 whatever source, including commissions, bonuses, and tips and
18 gratuities paid directly to any individual by a customer or his or
19 her employer.

20 (h) “Applicant” means any person, including an employee or
21 their dependent, on whose behalf an employer has paid a fee
22 pursuant to subdivision (c) of Section 12694.05.

23 (i) “Enrollee” means an applicant who has provided to the
24 program enrollment information as prescribed by the program in
25 accordance with Section 12694.30.

26 (j) “Board” means the Native American Tribal Casino
27 Employee Health Board.

28 (k) “Community provider plan” means that participating
29 health plan in each geographic area that has been designated by
30 the Major Risk Medical Insurance Board as having the highest
31 percentage of traditional and safety net providers in its provider
32 network.

33 (l) “County organized health system” means a health care
34 organization that contracts with the State Department of Health
35 Services to provide comprehensive health care to all eligible
36 Medi-Cal beneficiaries residing in the county, and that is operated
37 directly by a public entity established by a county government
38 pursuant to Section 14087.51 or 14087.54 of the Welfare and
39 Institutions Code, or Chapter 3 (commencing with Section
40 101675) of Part 4 of Division 101 of the Health and Safety Code.

1 (m) “Applicable contribution” means the cost to an applicant
2 to enable herself or himself or an eligible dependent to enroll in
3 and participate in the program. Applicable contribution does not
4 include copayments for insured services. The applicable
5 contribution may be paid by a contribution sponsor.

6 (n) “Value package” means the participating health plan
7 available to enrollees in each geographic area offering the lowest
8 prices to the program. The board may define the value package to
9 include not only the participating health plans offering the
10 absolute lowest price to the program but also the combination of
11 health plans within a fixed percentage or dollar amount of the
12 absolute lowest price.

13 (o) “Fund” means the Native American Tribal Casino
14 Employee Health Fund.

15 (p) “Local initiative” means a prepaid health plan that is
16 organized by, or designated by, a county government or county
17 governments, or organized by stakeholders, of a region designated
18 by the department to provide comprehensive health care to eligible
19 Medi-Cal beneficiaries. The entities established pursuant to the
20 following sections of the Welfare and Institutions Code are local
21 initiatives: Sections 14018.7, 14087.31, 14087.35, 14087.36,
22 14087.38, and 14087.96.

23 (q) “Program” means the Native American Tribal Casino
24 Employee Health Program, which includes a purchasing pool
25 providing health coverage for Tribal Casino employees and their
26 dependents for which their Tribal Casino employer pays a fee
27 rather than purchasing health coverage.

28 (r) “Geographic managed care plan” means an entity that is
29 operating pursuant to a contract entered into under Article 2.91
30 (commencing with Section 14089) of Chapter 7 of Part 3 of
31 Division 9 of the Welfare and Institutions Code.

32 (s) “Contribution sponsor” means a person or entity that pays
33 the applicable contribution on behalf of an applicant for any
34 period of 12 consecutive months. If the sponsor is paying for the
35 initial 12 months of eligibility, the payment for 12 months shall be
36 made with the application.
37

Chapter 3. Coverage

12694.04. Tribal gaming casino employers may provide health care coverage to each employee pursuant to this part. Employers may also provide health care coverage to the dependents of each employee in the event that those dependents are not receiving coverage from a different employer. An employer may provide health care coverage to the dependent spouse or domestic partner of an employee who is eligible for coverage from another employer.

12694.05. Tribal gaming casino employers may do any of the following:

(a) Select coverage from any health plan.

(b) Provide coverage through self-funded employer-sponsored plans.

(c) Pay a fee to Native American Tribal Casino Employee Health Protection and Portability Program for purposes of providing coverage.

12694.06. Health care benefits provided by the program in accordance with this part shall be equivalent to those provided pursuant to Chapter 5 (commencing with Section 12693.60) of Part 6.2.

12694.07. No employer shall request or otherwise seek to obtain information concerning income or other eligibility requirement for public health benefits program regarding any employee, dependent or other family member of an employee other than that information about the employee's employment status otherwise known to the employer consistent with existing state and federal law and regulation. For these purposes, public health benefits programs include, but are not limited to, Medi-Cal, Healthy Families, Managed Risk Medical Insurance Program, and Access for Infants and Mothers. A violation of this section shall constitute a violation of the Fair Employment and Housing Act.

12694.08. The board may do all of the following consistent with the standards in this part:

(a) Determine eligibility criteria for the program.

(b) Determine the participation requirements of applicants, subscribers, and participating health, dental, and vision plans.

- 1 (c) Determine when subscribers' coverage begins and the
2 extent and scope of coverage.
- 3 (d) Assure that family contribution amount schedules are
4 consistent with those required under Part 6.2 (commencing with
5 Section 12693) and collect the contributions.
- 6 (e) Determine who may be a family contribution sponsor and
7 provide a mechanism for sponsorship.
- 8 (f) Provide or make available subsidized coverage through
9 participating health, dental, and vision plans, in a purchasing
10 pool.
- 11 (g) Provide for the processing of applications and the
12 enrollment of subscribers.
- 13 (h) Determine and approve the benefit designs and copayments
14 required by health, dental, or vision plans participating in the
15 purchasing pool component program, consistent with Part 6.2
16 (commencing with Section 12693).
- 17 (i) Enter into contracts.
- 18 (j) Sue and be sued.
- 19 (k) Employ necessary staff.
- 20 (l) Authorize expenditures from the fund to pay program
21 expenses that exceed subscriber contributions, and to administer
22 the program as necessary.
- 23 (m) Maintain enrollment and expenditures to ensure that
24 expenditures do not exceed amounts available in the fund and if
25 sufficient funds are not available to cover the estimated cost of
26 program expenditures, the board shall institute appropriate
27 measures to increase fees paid by tribal casino employers.
- 28 (n) Issue rules and regulations, as necessary. Until January 1,
29 2005, any rules and regulations issued pursuant to this subdivision
30 may be adopted as emergency regulations in accordance with the
31 Administrative Procedure Act (Chapter 3.5 (commencing with
32 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
33 Code). The adoption of these regulations shall be deemed an
34 emergency and necessary for the immediate preservation of the
35 public peace, health, and safety or general welfare. The
36 regulations shall become effective immediately upon filing with
37 the Secretary of State.
- 38 (o) Exercise all powers reasonably necessary to carry out the
39 powers and responsibilities expressly granted or imposed by this
40 part.



1 12694.09. The board shall arrange coverage for employers
2 who pay a fee pursuant to subdivision (c) of Section 12694.05 by
3 establishing and maintaining a purchasing pool for coverage of
4 program enrollees to enable applicants without access to
5 affordable and comprehensive employer-sponsored coverage to
6 receive health benefits. The board shall negotiate separate
7 contracts with participating health plans for the benefit package
8 described in this part.

9 12694.10. The program shall be administered without regard
10 to gender, race, creed, color, sexual orientation, health status,
11 disability, or occupation.

12 12694.11. (a) Employee contributions shall be consistent
13 with those required pursuant to Part 6.2 (commencing with Section
14 12693).

15 (b) Health plans that are more expensive to the program than
16 the highest cost value package may be offered to and selected by
17 applicants. However, the cost to the program of those
18 combinations that exceeds the price to the program of the highest
19 cost value package shall be paid by the applicant as part of the
20 applicable contribution.

21 (c) The board shall provide a contribution discount to those
22 applicants who select the health plan in a geographic area that has
23 been designated as the Community Provider Plan. The discount
24 shall reduce the portion of the applicable contribution described
25 in subdivision (a).

26 12694.12. The applicable employee contribution shall be
27 paid concurrently with the employer fee, pursuant to subdivision
28 (c) of Section 12694.05. The employer may agree to pay any
29 applicable employee contribution.

30 12694.13. (a) The board shall assure that the required
31 enrollee copayment levels for specific benefits, including total
32 annual copayments, are consistent with those required pursuant to
33 Part 6.2 (commencing with Section 12693). The board shall
34 instruct participating health plans to work with their provider
35 networks to provide for extended payment plans for enrollees
36 utilizing a significant number of health services for which
37 copayments are charged. The board shall track the number of
38 enrollees who meet the copayment maximum in each year and
39 make adjustments in the amount if a significant number of
40 enrollees reach the copayment maximum.

1 (b) No deductibles or other out-of-pocket costs other than
2 copayments in accordance with this section shall be charged to
3 enrollees for health benefits.

4 (c) Coverage provided to enrollees shall not contain any
5 preexisting condition exclusion requirements.

6 (d) No participating health plan shall exclude any enrollee on
7 the basis of any actual or expected health condition or claims
8 experience of that enrollee or a member of that enrollee's family.

9 (e) There shall be no variations in rates charged to enrollees
10 including premiums and copayments, on the basis of any actual or
11 expected health condition or claims experience of any enrollee or
12 enrollee's family member. The only variation in rates charged to
13 enrollees, including copayments and premiums, that shall be
14 permitted is that expressly authorized by Section 12694.11.

15 (f) There shall be no copayments for preventive services as
16 defined in Section 1367.35 of the Health and Safety Code.

17 (g) There shall be no annual or lifetime benefit maximums in
18 any of the coverage provided under the program.

19 (h) In no case shall an enrollee be required to pay more than
20 one thousand dollars (\$1,000) per annum in out-of-pocket
21 expenses.

22 12694.14. The board shall use appropriate and efficient
23 means to notify employees and their dependents of the availability
24 of health coverage from the program.

25 (a) The board shall assure that written enrollment information
26 issued or provided by the program is available to program
27 enrollees and applicants in each of the languages identified
28 pursuant to Chapter 17.5 (commencing with Section 7290) of
29 Division 7 of Title 1 of the Government Code.

30 (b) The board shall assure that phone services provided to
31 program enrollees and applicants by the program are available in
32 all of the languages identified pursuant to Chapter 17.5
33 (commencing with Section 7290) of Division 7 of Title 1 of the
34 Government Code.

35 (c) The board shall assure that interpreter services are
36 available between enrollees and contracting plans. The board
37 shall assure that enrollees are provided information within
38 provider network directories of available linguistically diverse
39 providers.



1 (d) The board shall assure that participating health plans
2 provide documentation on how they provide linguistically and
3 culturally appropriate services, including marketing materials, to
4 enrollees.

5 12694.16. No participating health plan shall, in an area
6 served by the program, directly, or through an employee, agent, or
7 contractor, provide an applicant, or an enrollee with any
8 marketing material relating to benefits or rates provided under the
9 program unless the material has been both reviewed and approved
10 by the board.

11
12 Chapter 5. Employer Fee
13

14 12694.17. The board shall annually determine the level of the
15 fee to be paid by employers who chose to participate in the
16 program. In determining the level of the fee, the board shall take
17 into account the wages of the employees for whom coverage will
18 be purchased as well as other relevant factors.

19 12694.18. The board shall provide notice to the Employment
20 Development Department of the amount of the fee in a time and
21 manner that permits the Employment Development Department to
22 provide notice to all employers of the estimated fee for the budget
23 year.

24
25 Chapter 6. Participating Health Plans
26

27 12694.19. (a) The board may establish geographic areas
28 within which participating health plans may offer coverage to
29 enrollees.

30 (b) Nothing in this section shall restrict a county organized
31 health system or a local initiative from providing service to
32 program enrollees in their licensed geographic service area.

33 12694.20. Participating health plans shall have, but need not
34 be limited to, all of the following operating characteristics
35 satisfactory to the board in consultation with the plan's licensing
36 or regulatory oversight agency:

37 (a) Strong financial condition, including the ability to assume
38 the risk of providing and paying for covered services. A
39 participating plan may utilize reinsurance, provider risk sharing,
40 and other appropriate mechanisms to share a portion of the risk.

1 (b) Adequate administrative management.

2 (c) A satisfactory grievance procedure.

3 (d) Participating plans or providers that contract with or
4 employ health care providers shall have mechanisms to
5 accomplish all of the following, in a manner satisfactory to the
6 board:

7 (1) Review the quality of care covered.

8 (2) Review the appropriateness of care covered.

9 (3) Provide accessible health care services.

10 (e) (1) Before the effective date of the contract, the
11 participating health plan shall have devised a system for
12 identifying in a simple and clear fashion both in its own records
13 and in the medical records of enrollees the fact that the services
14 provided are provided under the program.

15 (2) Throughout the duration of the contract, the plan shall use
16 the system described in paragraph (1).

17 (f) Plans licensed by the Department of Managed Health Care
18 shall be deemed to meet the requirements of subdivisions (a) to (d),
19 inclusive, of this section.

20 12694.22. (a) Notwithstanding any other provision of law,
21 the board shall not be subject to licensure or regulation by the
22 Department of Insurance or the Department of Managed Health
23 Care, as the case may be.

24 (b) Participating health plans that contract with the program
25 and are regulated by either the Insurance Commissioner or the
26 Department of Managed Health Care shall be licensed and in good
27 standing with their respective licensing agencies. In their
28 application to the program, those entities shall provide assurance
29 of their standing with the appropriate licensing entity.

30 12694.23. (a) The board shall contract with a broad range of
31 health plans in an area, if available, to ensure that enrollees have
32 a choice from among a reasonable number and types of competing
33 health plans and providers. The board shall develop and make
34 available objective criteria for health plan selection and provide
35 adequate notice of the application process to permit all health
36 plans and providers a reasonable and fair opportunity to
37 participate. The criteria and application process shall allow
38 participating health plans to comply with their state and federal
39 licensing and regulatory obligations, except as otherwise provided

1 *in this chapter. Health plan selection shall be based on the criteria*
2 *developed by the board.*

3 *(b) (1) In its selection of participating plans the board shall*
4 *take all reasonable steps to assure the range of choices available*
5 *to each applicant shall include plans that include in their provider*
6 *networks and have signed contracts with traditional and safety net*
7 *providers.*

8 *(2) Participating health plans shall be required to submit to the*
9 *board on an annual basis a report summarizing their provider*
10 *network. The board shall give priority to those plans, on a*
11 *county-by-county basis, that demonstrate that they have included*
12 *in their prospective plan networks significant numbers of*
13 *providers in these geographic areas.*

14 *(c) In each geographic area, the board shall designate a*
15 *community provider plan that is the participating health plan*
16 *which has the highest percentage of traditional and safety net*
17 *providers in its network. Enrollees selecting such a plan shall be*
18 *given an applicable contribution discount as described in Section*
19 *12694.11.*

20 *(d) The board shall establish reasonable limits on health plan*
21 *administrative costs.*

22 *12694.24. The board may adjust payments made to a*
23 *participating health plan if the board finds that the plan has a*
24 *significantly disproportionate share of high- or low-risk enrollees.*
25 *Prior to making this finding, the program shall obtain validated*
26 *data from participating health plans. Reporting requirements shall*
27 *be administratively compatible with the methods of operation of*
28 *the health plans. Any adjustments to payments shall utilize*
29 *demographic and other factors which are actuarially related to*
30 *risk.*

31 *12694.25. The board may negotiate or arrange for stop-loss*
32 *insurance coverage that limits the program's fiscal responsibility*
33 *for the total costs of health services provided to program enrollees,*
34 *or arrange for participating health plans to share or assure the*
35 *financial risk for a portion of the total cost of health care services*
36 *to program enrollees, or both.*
37

Chapter 7. Cost Containment

12694.26. The board shall develop and utilize appropriate cost containment measures to maximize the cost-effectiveness of coverage offered under the program. Those measures may include limiting the expenditure of state funds for this purpose to the price to the state for the lowest cost plan contracting with the program and creation of program rules that restrict the ability of employers or applicants to drop existing coverage in order to qualify for the program. The board may obtain information sufficient to assist it in determining whether the price paid for coverage is appropriate to assure access to quality care and whether a different price may be appropriate.

Chapter 8. Enrollee Grievances and Plan Transfers

12694.27. (a) When an applicant is dissatisfied with any action or inaction of a participating plan in which an enrollee is enrolled through the purchasing pool, the applicant shall first attempt to resolve the dispute with the participating plan according to its established policies and procedures.

(b) The board shall assure that all participating health plans make enrollees aware of the regulatory oversight available to the applicant by the participating health plan's licensing or state oversight entity.

(c) The board shall assure that all participating health plans report to the board, at least once a year, the number and types of benefit grievances filed by applicants on behalf of enrollees in the program. This information shall be available to applicants upon request in a format determined by the board.

12694.28. (a) Notwithstanding any other provision of this part, a new enrollee in the program shall be allowed to switch his or her choice of health plan once within the first three months of coverage for any reason. Transfer of enrollment from one participating health plan to another may otherwise be made by an enrollee at times and under conditions as may be prescribed by regulations of the board.

(b) The board shall provide for the transfer of coverage of any enrollee to another participating plan (1) if a contract with any participating plan under which the enrollee receives coverage is

1 *canceled or not renewed and (2) at least once a year upon request*
2 *in a manner as determined by the board, and (3) if a enrollee moves*
3 *to an area that the current health plan does not serve.*

4
5 *Chapter 9. Other Public Programs*
6

7 *12694.30. (a) The employer who has chosen to pay a fee to*
8 *the program shall provide information to the program regarding*
9 *potential enrollees as prescribed by the program.*

10 *(b) In no case shall the program require or permit the employer*
11 *to obtain from the potential enrollee information about the family*
12 *income or other eligibility requirements for Medi-Cal, Healthy*
13 *Families, or other public programs other than that information*
14 *about the employee's employment status otherwise known to the*
15 *employer consistent with existing state and federal law and*
16 *regulation.*

17 *(c) The program shall obtain from enrollment information from*
18 *potential enrollees to be covered by the program.*

19 *(d) The enrollee shall be covered by the program from the date*
20 *that the program receives enrollment information from the*
21 *enrollee.*

22 *(e) The program shall seek to assure continuity of coverage for*
23 *those enrollees continuing to be covered by the program. No*
24 *enrollee shall cease to be covered unless the program can*
25 *document that the enrollee received notice 30 days prior to the*
26 *termination of coverage.*

27 *12694.31. (a) Upon the effective date of coverage of a child*
28 *eligible for the program, the board shall arrange for payment of*
29 *providers who participate in the Child Health and Disability*
30 *Prevention Program pursuant to Article 6 (commencing with*
31 *Section 124025) of Chapter 3 of Part 2 of Division 106 of the*
32 *Health and Safety Code, for well-child health assessments,*
33 *immunizations, and initial treatment provided up to 90 days prior*
34 *to the effective date of coverage.*

35 *(b) The board shall pay only for those services that are eligible*
36 *for federal financial participation under Section 2105 of Title XXI*
37 *of the Social Security Act and that are approved in the required*
38 *state plan under that title, except as specified in Section 12693.76.*

39 *(c) (1) Child Health and Disability Prevention Program*
40 *providers shall submit charges for the services under subdivision*

1 (a) on the form or in the format specified by the department for the
2 Child Health and Disability Prevention Program. Those providers
3 shall be reimbursed at the rates established for these services by
4 the Child Health and Disability Prevention Program once
5 coverage under the program is established.

6 (2) Those providers shall submit charges for services
7 reimbursable under Medi-Cal on the form or in the format
8 specified by the department for Medi-Cal. Those providers shall
9 be reimbursed at the rates established for these services by
10 Medi-Cal once coverage under Medi-Cal is established.

11 (d) (1) The board may use the state fiscal intermediary for
12 Medicaid to process the payments authorized in subdivision (a).

13 (2) The board shall be exempt from the requirements of Chapter
14 7 (commencing with Section 11700) of Division 3 of Title 2 of the
15 Government Code and Chapter 3 (commencing with Section
16 12100) of Part 2 of Division 2 of the Public Contract Code as those
17 requirements apply to the use of contractual claims processing
18 services by the state fiscal intermediary.

19 12694.33. The following provisions apply for enrollees who
20 have been identified by the participating health plans as
21 potentially seriously emotionally disturbed.

22 (a) Participating plans, to the extent feasible, shall develop
23 memoranda of understanding, consistent with criteria established
24 by the board in consultation with the State Department of Mental
25 Health, for referral of enrollees who are seriously emotionally
26 disturbed to a county mental health department. This referral does
27 not relieve a participating plan from providing the mental health
28 coverage specified in its contract, including assessment of, and
29 development of, a treatment plan for serious emotional
30 disturbance. Plans may contract with county mental health
31 departments to provide for all, or a portion of, the services
32 provided under the program's mental health benefit.

33 (b) The board shall establish an accounting process under
34 which counties providing services to enrollees who have been
35 determined to be seriously emotionally disturbed pursuant to
36 Section 5600.3 of the Welfare and Institutions Code can claim
37 federal reimbursement for the services. The board shall reimburse
38 counties pursuant to the rates set by the State Department of
39 Mental Health in accordance with Sections 5705, 5716, 5718,
40 5720, 5724, and 5778 of the Welfare and Institutions Code. The

1 actual amount reimbursed by the board shall be the federal share
2 of the cost of the enrollee.

3 (c) This section shall only become operative with the approval
4 of federal financial participation.

5 (d) Counties choosing to enter into a memorandum of
6 understanding pursuant to subdivision (a) shall provide the
7 nonfederal share of cost for the enrollee.

8 12694.34. Notwithstanding any other provision of law, for an
9 enrollee who is determined by the California Children's Services
10 Program to be eligible for benefits under the program pursuant to
11 Article 5 (commencing with Section 123800) of Chapter 3 of Part
12 2 of Division 106 of the Health and Safety Code, a participating
13 plan shall not be responsible for the provision of, or payment for,
14 the particular services authorized by the California Children's
15 Services Program for the particular enrollee for the treatment of
16 a California Children's Services Program eligible medical
17 condition. Participating plans shall refer a child who they
18 reasonably suspect of having a medical condition that is eligible
19 for services under the California Children's Services Program to
20 the California Children's Services Program. The California
21 Children's Services Program shall provide case management and
22 authorization of services if the child is found to be medically
23 eligible for the California Children's Services Program. Diagnosis
24 and treatment services that are authorized by the California
25 Children's Services Program shall be performed by paneled
26 providers for that program and approved special care centers of
27 that program in accordance with treatment plans approved by the
28 California Children's Services Program. All other services
29 provided under the participating plan shall be available to the
30 enrollee.

31 12694.35. A child enrolled in the program who has a medical
32 condition that is eligible for services pursuant to the California
33 Children's Services Program, and whose family is not financially
34 eligible for the California Children's Services Program, shall have
35 the medically necessary treatment services for their California
36 Children's Services Program eligible medical condition
37 authorized and paid for by the California Children's Services
38 Program. County expenditures for the payment of services for the
39 child shall be waived and these expenditures shall be paid for by

1 *the state from Title XXI funds that are applicable and state general*
2 *funds.*

3 12694.36. *The board shall encourage all plans that provide*
4 *services under the program to have viable protocols for screening*
5 *and referring persons needing supplemental services outside of the*
6 *scope of the screening, preventive, and medically necessary and*
7 *therapeutic services covered by the contract to public programs*
8 *providing such supplemental services for which they may be*
9 *eligible, as well as for coordination of care between the plan and*
10 *the public programs. The public programs for which plans may be*
11 *required to develop screening, referral, and care coordination*
12 *protocols may include the California Children's Services*
13 *Program, the regional centers, county mental health programs,*
14 *programs administered by the Department of Alcohol and Drug*
15 *Programs, and programs administered by local education*
16 *agencies.*

17
18 Chapter 10. Administration
19

20 12694.40. *A contract entered pursuant to this part shall be*
21 *exempt from any provision of law relating to competitive bidding,*
22 *and shall be exempt from the review or approval of any division of*
23 *the Department of General Services. The board shall not be*
24 *required to specify the amounts encumbered for each contract, but*
25 *may allocate funds to each contract based on the projected or*
26 *actual enrollee enrollments to a total amount not to exceed the*
27 *amount appropriate for the program including applicable*
28 *contributions.*

29 12694.41. (a) *There is hereby created in the State Treasury*
30 *the Native American Tribal Casino Employee Health Fund which*
31 *is, notwithstanding Section 13340 of the Government Code,*
32 *continuously appropriated to the board for the purposes specified*
33 *in this part.*

34 (b) *The board shall authorize the expenditure from the fund of*
35 *any federal funds or applicable contributions deposited into the*
36 *fund. This shall include the authority for the board to authorize the*
37 *State Department of Health Services to transfer federal funds*
38 *appropriated to the department for the program to the Native*
39 *American Tribal Casino Employee Health Board Fund, and to also*

1 *deposit those funds in, and to disburse those funds from, the Native*
2 *American Tribal Casino Employee Health Board Fund.*

3
4 *Chapter 11. Protection Against Substitution of Benefits*
5

6 12694.45. (a) *It shall constitute an unfair labor practice*
7 *contrary to public policy, and enforceable under Section 95 of the*
8 *Labor Code, for any employer to refer an individual employee or*
9 *employee's dependent to the program, or to arrange for an*
10 *individual employee or employee's dependent to apply to the*
11 *program, for the purpose of separating that employee or*
12 *employee's dependent from group health coverage provided in*
13 *connection with the employee's employment.*

14 (b) *To ensure compliance with this section, the board shall*
15 *obtain from each enrollee information about the principal*
16 *employer of the enrollee or the parent of the enrollee.*

17 ~~amended to read:~~

18 ~~12693.90. (a) The board shall appoint a 16-member advisory~~
19 ~~panel to advise the board, the chair of which may serve as an ex~~
20 ~~officio, nonvoting member of the board. The panel shall be~~
21 ~~appointed and ready to perform its duties by no later than February~~
22 ~~1, 1998.~~

23 ~~(b) The membership of the advisory panel shall be composed~~
24 ~~of all of the following:~~

25 ~~(1) Three representatives from the subscriber population.~~

26 ~~(2) One physician and surgeon who is board certified in~~
27 ~~pediatrics.~~

28 ~~(3) One physician and surgeon who is board certified in the area~~
29 ~~of family practice medicine.~~

30 ~~(4) One member who is a licensed, practicing dentist.~~

31 ~~(5) One representative from a licensed nonprofit primary care~~
32 ~~clinic.~~

33 ~~(6) One representative from a licensed hospital that is on the~~
34 ~~disproportionate share list maintained by the State Department of~~
35 ~~Health Services.~~

36 ~~(7) One representative of the mental health provider~~
37 ~~community.~~

38 ~~(8) One representative of the substance abuse provider~~
39 ~~community.~~

1 ~~(9) One representative of the county public health provider~~
2 ~~community.~~
3 ~~(10) One representative from the education community.~~
4 ~~(11) One representative from the health plan community.~~
5 ~~(12) One representative from the business community.~~
6 ~~(13) One representative from an eligible family with children~~
7 ~~with special needs.~~
8 ~~(14) One representative of organized labor.~~
9 ~~(e) The advisory board members shall have demonstrated~~
10 ~~expertise in the provision of health-related services to children~~
11 ~~aged 18 years and under, as applicable.~~
12 ~~(d) The advisory board members shall be composed of~~
13 ~~representatives of the geographic, cultural, economic, and other~~
14 ~~social factors of the state.~~
15 ~~(e) The panel shall elect, from among its members, its chair.~~
16 ~~(f) The panel shall have all of the following powers and duties:~~
17 ~~(1) To advise the board on all policies, regulations, operations,~~
18 ~~and implementation of the program.~~
19 ~~(2) To consider all written recommendations of the panel and~~
20 ~~respond in writing when the board rejects the advice of the panel.~~
21 ~~(3) To meet at least quarterly, unless deemed unnecessary by~~
22 ~~the chair.~~
23 ~~(g) The members of the panel shall be reimbursed for all~~
24 ~~necessary travel expenses associated with the activities of the~~
25 ~~panel.~~
26 ~~(h) The members of the panel who represent the subscriber~~
27 ~~population may receive per diem compensation if they are~~
28 ~~otherwise economically unable to meet panel responsibilities.~~